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OFFICE OF PETITIONS

In re Application of
Angelopoulos et al.
Application No. 09/346,353
Filed: July 2, 1999
Attorney Docket No.: YO996-049BX

ON PETITION

This is a decision on the petition, filed November 19, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application was held abandoned for failure to timely file a response to the non-final Office action which was mailed on December 13, 2006. The non-final Office action set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 23, 2007.

Petitioner contends that a reply to the December 13, 2006 was timely submitted in the form of an amendment, check and three month request for extension of time. In support of petitioner's contention petitioner has submitted a copy of a postcard receipt stamped July 11, 2007. A review of a copy of the amendment submitted shows the reply included a certificate of mailing dated June 13, 2007.

Pursuant to 37 CFR 1.8, correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. The Office may require additional evidence to determine if the correspondence was timely filed.

Petitioner has failed to meet requirement (3). Petitioner has established that the correspondence was received in the Office on July 11, 2007 via the postcard receipt. However, since the date on the postcard receipt is not within the statutory time period of reply. Petitioner has failed to establish that the correspondence was timely mailed.

Petitioner must provide a statement which attest on personal knowledge that the documents were mailed on June 13, 2007. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). A review of the certificate of mailing shows that it was executed by Thomas Beck. A sufficient statement by attorney Beck has not been provided.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By delivery service: U.S. Patent and Trademark Office
(FedEx, UPS, DHL, etc.) Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at
(571) 272-3215.



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